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EXAMINER	
VENT, JAMIE J	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/781,111	POTREBIC ET AL.	
	Examiner	Art Unit	
	Jamie Vent	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21 and 23-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-21 and 23-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 24-28 are rejected under 35 U.S.C. 102(e) as being unpatentable by Yap et al (US 2002/0040475).

[claim 24]

In regard to Claim 24, Yap et al discloses an intelligent recording and management system for recording and managing video data on a storage device, the system comprising:

- a receiver for receiving a signal carrying programming (Figure 1 shows the receiver 40 which receives a signal for programming);
- a recording device coupled to said receiver for selectively recording video data corresponding to a program of said programming based on a recording tag assigned to said program and recording rules that determine whether said

program is to be recorded wherein said recording device means for (Figure 1 shows the recording device 200 that is coupled to the control unit for selectively recording programs based on tagged information obtained from the user);

- receiving a request by a viewer for the system to record the program on the storage device (Figure 3 shows the manual input of content selection);
- upon receiving the request from the viewer to record the program, selectively assigning a tag to the program, wherein said tag is used by the system to control, at least in part recording of the program, said tag including at least one of a guaranteed tag, an optional tag, or a priority tag, each of the guaranteed optional or a priority tags corresponding to a different criteria for recording said program (Figure 3 step 310 scans and determines tag items);
- applying the recording rules to said tag to determine whether the request to record said program is to be fulfilled (Figure 3 step 340 updates the selection information)
- if it is determined that the request is to be fulfilled, automatically programming the system to record video data associated with the program on the storage device (Figure 3 step 350 updates the programming of the system to record the program);

- a storage device coupled to said recording device for storing said recorded video data based on a storage tag assigned to said recorded video data and storage rules that determine whether said recorded data is to be deleted (Figure 1 shows the storage device wherein rules are applied as further discussed in Paragraphs 0352-0355);
- a storage device coupled to said recording device for storing said recorded video data based on a storage tag assigned to said recorded video data and storage rules that determine whether said recorded video data is to be deleted (Paragraphs 0352-0359 discloses a storage device for storing the recorded video data based on the storage tag);
- an interface coupled to said recording device for informing a viewer (Figure 1 shows the interface that is coupled to recording device for informing the viewer of various data).

[claim 25]

In regard to Claim 25, Yap et al discloses a system wherein said interface informs said viewer to an amount of space that is available on said storage device for storing video data (Figure 21a-c shows a system wherein an interface informs the viewer of the available space).

[claim 26]

In regard to Claim 26,Yap et al discloses a system wherein the interface informs said viewer of recording said video data corresponding to said program on said storage

device (Figure 21a shows the amount of space that is left which corresponds to the program size).

[claim 27]

In regard to Claim 27, Yap et al discloses a system wherein said interface informs said viewer of deleting said recorded video data from said storage device (Figure 30 c shows the interface that allows for deleting of the recorded video data from the storage device).

[claim 28]

In regard to Claim 28, Yap et al discloses an interface that informs the viewer as to why only a portion of the video data was recorded on said storage device (Figure 30b shows the system informing the user that only portion of the video has been recorded as according to the recording attributes).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-12, 16, 18-21, 23, 29-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Yap et al (US 2002/0040475) in view of Marsh et al (US 6,208,799).

[claim 1]

In regard to Claim 1, Yap et al discloses a video data recording system that is associated with a television on which a program can be displayed and includes a storage device for storing video data associated with the program, a method for

optimizing the use of available storage space on the storage device, the method comprising the acts of:

- receiving a request by a viewer for the system to record a first program on the storage device (Figure 1 shows the receiving of a request from the user through the user interface 90);
- upon receiving the request from the viewer to record the first program selectively assigning a first tag to said first program (Figure 3 shows the tagging of the programs);
- applying recording rules to said first tag to determine whether the request to record said first program is to be fulfilled (Figure 4 determines if the request is recorded as further described in Paragraphs 120-127); and
- if it is determined that the request is to be fulfilled, automatically programming the system to record the video data associated with said first program on the storage device (Figure 4 determines that the request is fulfilled and further associated the recording with storage device through the updating of the file manager as further described in Paragraphs 125-127); however fails to disclose the first tag is used by the system to control, at least in part, recording of said first program, said first tag including at least one of a guaranteed tag, an optional tag or a priority tag, each of the guaranteed, optional and priority tags corresponding to different criteria for recording said program.

Marsh et al discloses a system wherein priority of various programs is determined through the current user requests. It is described in Column 2 Lines 5+ that various priority is given to different pre-recorded programs based on if the recording is a priority recording. This allows for the system to give higher priority to these types of programs and thereby making a guarantee that the recording of the program. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a video data recording system, as disclosed by Yap et al, and further incorporate a system wherein a priority recording is determined, as disclosed by Marsh et al.

[claim 2]

In regard to Claim 2, Yap et al discloses a method wherein said first tag is automatically assigned by the system (Figure 3 step 310 shows the system automatically assigning tags as further described in Paragraph 0116).

[claim 3]

In regard to Claim 3, Yap et al discloses a method wherein viewer input received by the system assigns said first tag to said first program (Figure 4 step 410 shows the assigning of the first tag to the first program).

[claim 4]

In regard to Claim 4, Yap et al discloses a method comprising informing said viewer when insufficient space is available on the storage device to record said first program (Figure 21a shows a way in which the viewer is informed the availability of space that is remaining in the system for recording).

[claim 5]

In regard to Claim 5, Yap et al discloses a method wherein said first tag is a guaranteed tag for causing sufficient recording space on the storage device to be reserved when said request is received for recording said first program on the storage device as opposed to a time at which said first program is broadcast to the system (Figure 3 step 320 allows for the tagging of the program to guarantee recording is completed based on the selection criteria that is selected (i.e. priority of recording would make sure that enough memory was available for recording) as further described in Paragraphs 0116-0118).

[claim 6]

In regard to Claim 6, Yap et al discloses a method wherein:

- said act of applying recording rules to the first tag to determine whether the request to record the first program is to be fulfilled comprises determining, at a time when said request is received, whether said sufficient storage space is available on the storage device to record said first program (Paragraphs 0111-0115 describes the recording rules that are applied to the recorded A/V streams of the system. Furthermore, it is described in paragraphs 0352-0353 the system which alarms user that sufficient storage space availability);
- and said act of automatically programming the system to record the video data associated with said first program on the storage device comprises:
    - reserving said sufficient storage space for the recording of said first program if said sufficient storage space is available (Figure 7

shows the reserving of sufficient storage space for recording the first program); and

- automatically programming the system to record said first program in said sufficient storage space when said first program is broadcast (Figure 4 shows the automatically programming of the program when sufficient storage space is available according to Figures 21a-21c).

[claim 7]

In regard to Claim 7, Yap et al discloses a method wherein if said sufficient storage space is not available, the method further comprises informing said viewer that insufficient storage space is available on the storage device to record said first program (Figure 22b and 23a both warns that viewer that insufficient storage space is available for recording).

[claim 8]

In regard to Claim 8, Yap et al discloses a method wherein said first tag is all optional tag for causing said first program to be recorded on the storage device if sufficient storage space exists on the storage device when said first program is broadcast (paragraphs 0357-0359 describes the tagging of A/V content when sufficient storage space is available).

[claim 9]

In regard to Claim 9, Yap et al discloses a method wherein:

- said ad of applying recording rules to the first tag to determine whether the request to record the first program is to be fulfilled comprises determining, at the time when said first program is to be broadcast, whether sufficient storage space is available on the storage device to record said first program; and
- said act of automatically programming the system to record the video data associated with said first program on the storage device comprises recording said first program on the storage device if said sufficient storage space is available when said first program is broadcast.

[claim 10]

In regard to Claim 10, Yap et al discloses a method wherein if said sufficient storage space is not available when said first program is to be broadcast, the method further comprises informing said viewer that insufficient storage space is available on the storage device to record said first program (Figures 21a-c, 22b, and 23 a-c shows a display for informing the user that insufficient storage space is available to record the first program.)

[claim 11]

In regard to Claim 11, Yap et al discloses a method wherein said first tag identifies a first priority for recording said first program (Paragraphs 0120-0126 describes the priority each tagged program is given regarding recording, playback and deletion).

[claim 12]

In regard to Claim 12, Yap et al discloses a method further comprising the acts of:

- receiving a request for the system to record a second program on the storage device (Figure 4 shows how the system handles multiple recording request from the user as further described in Paragraphs 0124-0126); and
- selectively assigning a second tag to said second program to identify a second priority for recording said second program on the storage device (Paragraphs 0124-0126 describes the tagging of various recording streams).

[claim 16]

In regard to Claim 16, Yap et al discloses a method further comprising the act of recording the first program on the storage device (Figure 2 shows the recording of programs onto the storage devices 205 and 255 as further described in Paragraphs 105-108).

[claim 18]

In regard to Claim 18, Vallone et al discloses a video data management system that is associated with a television on which a program can be displayed and includes a storage device for storing video data associated with one or more recorded programs, as disclosed in Claim 1 with the additional method of optimizing the availability of storage space on the storage device, the method comprising the acts of:

- selectively assigning a first tag to a first recorded program to identify a first priority for maintaining said first recorded program on the storage device wherein the first priority of the first tag changes after the first recorded

program is viewed on the system; (Figure 17 displays a programming recording list wherein the priority is selectively assigned to the various programs as seen in elements 1704 and further described in Column 15 Lines 33-67 and Column 16 Lines 1-50);

- determining whether the first recorded program is partially recorded program (Figure 26 shows the determining factor of indicating that the program recorded is partial as seen in 2602 the recorded portion of the program is only from 11:15-11:19 instead of the entire program that begun at 11:00. Thereby making this segment a partial program);
- applying storage rules to said first tag to determine whether to delete first recorded program from the storage device wherein it is determined that said first recorded program should be deleted when the first recorded program is a partially recorded program or when the priority of the first tag changes. (Column 15 Lines 60-67 discusses the priority of programs regarding deletion); and
- if it is determined that the first recorded program is to be deleted from the storage device automatically deleting said first recorded program from the storage device (Column 15 Lines 60-67 states that if the program is marked for deletion the system will automatically delete or store the program according to the set priorities determined by the user).

[claim 19]

In regard to Claim 19, Vallone et al discloses a method wherein said act of applying recording rules to said first tag comprises:

- indicating that said first recorded program is to be overwritten when a second program is recorded on the storage device if said first recorded program is a partial program (Figure 25 shows an indication that the program is to be overwritten regardless if the program is an whole or partial).

[claim 20]

In regard to Claim 20, Vallone et al discloses a method wherein if said first recorded program is a partial program, the method further comprises notifying a viewer that said first recorded program to be overwritten when a second program is recorded on the storage device (Figure 25 shows a notifying means to notify user that a program is to be overwritten).

[claim 21]

In regard to Claim 21, Vallone et al discloses a method wherein if said first tag includes a time for deletion, the method further comprises deleting said first recorded program from the storage device at said deletion time (Figure 18 shows the various attributes that are associated with a program, such as deleting of the programs found through the delete now 1803 button that allows for user to determine desired deletion date).

[claim 23]

In regard to Claim 23, Vallone et al discloses a method wherein if a portion of said first recorded program has been viewed by a viewer, performing the acts of:

- determining whether to delete the said viewed portion (Figure 18 step 1803 allows viewer top delete viewed recorded program);
- deleting said viewed portion of said first recorded program from the storage device if said viewed portions is to be deleted (Figure 18 further allows the deletion of the program).

[claim 29]

In regard to Claim 29, Yap et al discloses a method wherein subsequent to the user being notified there is insufficient space to record first program the method further includes changing to the priority of the first tag and recording the first program over other programming stored in the storage drive (Figure 22b and 23a both warns that viewer that insufficient storage space is available for recording).

[claim 30]

In regard to Claim 30, Yap et al discloses a method wherein the first tag includes the priority tag as well as at least one of the optional tag and the guarantee tag as previously recited in Claim 1.

4. Claims 13-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yap et al (US 2002/0040475) in view of in view of Marsh (6,208,799) in further view of Vallone et al (US 6,642,939).

[claims 13, 15, & 17]

In regard to Claims 13, 15, and 17, Yap et al in view of Marsh, discloses a method wherein when storage space available on the storage device is only sufficient to store

data associated with one of said first program and said second program (Figures 21a-c) however, fails to disclose the method further comprises the acts of: determining which of said first priority and said second priority is a higher priority, and overwriting said first program with said second program if said second priority is higher than said first priority. Vallone et al discloses a method wherein priority of the recorded program is determined in order for storage system priority. It is seen in Figure 17 the various buttons that show the priority levels of each show and thus allows user to determine what show has least priority will thus be deleted next when storage space is needed. For example element 1704 indicates that this program would be deleted next when more storage space was needed. By tagging each program with a certain priority allows for the important programs to be saved and allows other programs that may not be important to be deleted to make space in storage for new incoming programs. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a method wherein storage space is determined regarding recording of a program, as disclosed by Yap et al in view of Marsh, and furthermore allow the system to prioritize each show, as disclosed by Vallone et al, thus allowing the system to determine the importance of each program and not allowing deletion of important items.

[claim 14]

In regard to Claim 14, Yap et al discloses a method wherein if said first priority is a higher priority, the method further comprises the act of informing said viewer that insufficient space is available on the storage device to record said second program

(Figure 21a-c allows the user to view the storage space available and furthermore it is seen in Figure 30 that priority can be set with each program).

[claim 17]

In regard to Claim 17, Yap et al discloses a method comprising the acts of applying storage rules to said first tag to determine when said first program is to be deleted from the storage device, and deleting the first program from the storage device

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie Vent whose telephone number is 571-272-7384. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamie Vent
12/10/05

James J. Groody
Supervisory Patent Examiner
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